

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

| | | |
|------------------------------|---|------------------------|
| WAYNE THOMAS, |) | |
| an individual, |) | |
| |) | Case No.: 4:22-cv-2001 |
| Plaintiff, |) | |
| v. |) | |
| |) | |
| 5860 SAN FELIPE, LTD., |) | |
| a Texas Limited Partnership, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(F)**

FEDERAL RULES OF CIVIL PROCEDURE

(Please restate the instruction before furnishing the information.)

- 1. State where and when the meeting of the parties required by Rule 26(f) was held and identify the counsel who attended for each party.**

RESPONSE: The Rule 26(f) conference was conducted telephonically on August 16, 2022.
Counsel who conferred:

Maryalyce Cox, Esq.
Counsel for Defendant, 5860 SAN FELIPE, LTD

Brian T. Ku, Esq.
Counsel for Plaintiff, Wayne Thomas

- 2. List the cases related to this one that are pending in any state or federal court with the case number and court.**

RESPONSE: Plaintiff has several similar ADA cases pending.

3. Specify the allegation of federal jurisdiction.

RESPONSE: 42 U.S.C. § 12181.

4. Name the parties who disagree and the reasons.

RESPONSE: No party disagrees with the jurisdiction.

5. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

RESPONSE: None known at this time.

6. List anticipated interventions.

RESPONSE: None.

7. Describe class-action issues.

RESPONSE: None.

8. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

RESPONSE: The Parties have not yet served their Initial Disclosures. The parties agree to serve their Initial Disclosures within 14 days of the Initial Conference, in accordance with Rule 26(a).

9. Describe the proposed agreed discovery plan, including:

a. Responses to all the matters raised in Rule 26(f).

RESPONSE: The Parties do not believe any changes in the timing, form, or requirement for disclosures under Rule 26(f) are necessary.

b. When and to whom the plaintiff anticipates it may send interrogatories.

RESPONSE: Plaintiff anticipates that he may serve interrogatories to Defendant on or before November 1, 2022.

- c. **When and to whom the defendants anticipate they may send interrogatories.**

RESPONSE: Defendant anticipate serving interrogatories to Plaintiff on or before October 1, 2022.

- d. **Of whom and by when the plaintiff anticipates taking oral depositions.**

RESPONSE: Plaintiff anticipates taking oral depositions of Defendant's property manager on or before January 30, 2023.

- e. **Of whom and by when the defendants anticipate taking oral depositions.**

RESPONSE: Defendant anticipates taking the oral deposition of Plaintiff on or before November 15, 2022.

- f. **When the plaintiff (or party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.**

PLAINTIFF'S RESPONSE: Plaintiff's expert reports shall be due on or before April 1, 2023.

DEFENDANT'S RESPONSE: Defendant's expert reports shall be due on or before May 1, 2023.

- g. **List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).**

RESPONSE: Plaintiff anticipates taking oral depositions of Defendant's expert on or before July 1, 2023.

- h. **List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).**

RESPONSE: Defendant anticipates taking oral depositions of Plaintiff's expert on or before June 1, 2023.

10. **If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.**

RESPONSE: The Parties agree on all aspects of the discovery plan.

- 11. Specify the discovery beyond initial disclosures that has been undertaken to date.**

RESPONSE: No discovery beyond initial disclosures has been taken at this time.

- 12. State the date the planned discovery can reasonably be completed.**

RESPONSE: August 1, 2023.

- 13. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.**

RESPONSE: Plaintiff intends to serve Defendant with a settlement demand prior to the Rule 16 Initial Conference, scheduled for August 18, 2022.

- 14. Describe what each party has done or agreed to do to bring about a prompt resolution.**

RESPONSE: Plaintiff intends to serve a settlement demand including the architectural modifications necessary to bring the property up to ADA standards.

DEFENDANT'S RESPONSE: Defendant filed a Motion to Dismiss [D.E. 8]. Defendant does not believe changes to its property are readily achievable.

- 15. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable and state when such a technique may be effectively used in this case.**

RESPONSE: The Parties believe that mediation would be the most appropriate form of alternative dispute resolution for resolving this case and believe that it would be most effective if it is conducted at the close of discovery.

- 16. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.**

RESPONSE: The Parties do not consent to trial before a United States Magistrate Judge at this time.

17. State whether a jury demand has been made and if it was made on time.

RESPONSE: A jury demand has not yet been made in this case.

18. Specify the number of hours it will take to present the evidence in this case.

RESPONSE: The Parties anticipate it will take 2-3 days to present evidence in this case.

19. List pending motions that could be ruled on at the initial pretrial and scheduling conference.

RESPONSE: Defendant filed a Motion to Dismiss [D.E. 8] Plaintiff's Original Complaint [D.E. 1] on 12(b)(1) and 12(b)(6) grounds. On August 11, 2022, Plaintiff filed his First Amended Complaint [D.E. 9]. Defendant's counsel has been in trial and has not yet had an opportunity to review the Amended Complaint.

20. List other motions pending.

RESPONSE: There are no pending motions at this time.

21. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.

RESPONSE: None.

22. List the names, bar numbers, addresses and telephone numbers of all counsel.

PLAINTIFF:

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Counsel for Plaintiff(s) /s/ Brian Ku

Date 8/16/2022

Counsel for Defendant(s) /s/ Maryalyce Cox

Date 8/16/2022